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viction" so as to include judgment or sentence. This rule of construction has been applied where conviction disqualifies a witness either at common law or by statute, and where a person is disqualified by conviction to hold a seat in the legislature. *Lee v. Gansel*, Cowp. 1; *Commonwealth v. Gorham*, 99 Mass. 420; *Case of Falmouth*, Mass. Election Cases, 1853 ed., 203. The rule is also invoked where a conviction for violating its conditions forfeits a liquor dealer's license. *Commonwealth v. Kiley*, 150 Mass. 325. Cf. *Schiffer v. Pruden*, 64 N. Y. 47. Furthermore, it is usually held that no appeal lies from a verdict with sentence suspended, and in New York, at least, it is doubtful whether the governor has power to pardon in such a case. See *People v. Markham*, 114 N. Y., App. Div. 387; N. Y. CONST., art. IV., § 5. Hence the result of suspending sentence, a proceeding intended to benefit a defendant, would be to deprive him of a chance to regain rights of citizenship by an appeal or by seeking a pardon. These consequences of the narrow interpretation of "conviction" afford strong reason for presuming that the word was here used in the broader sense.

FEDERAL COURTS — JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP — PRINCIPAL AND SURETY. — A contracted with B to pay the judgment in a suit in a state court by B against C if judgment was rendered against C. The court gave judgment against C. B and C were citizens of the same state, and A was a citizen of another state. A brought a bill in the federal court to have the judgment avoided for fraud, and C was made a defendant to give jurisdiction by diversity of citizenship. *Held*, that the federal court has no jurisdiction. *Steele v. Culver*, U. S. Sup. Ct., Oct. 26, 1908.

For the federal courts to have jurisdiction by diversity of citizenship all the parties plaintiff must be citizens of different states from all the parties defendant. *Gage v. Riverside Trust Co.*, 156 Fed. 1002. Such jurisdiction is not affected by merely formal or unnecessary parties. *Reese v. Zinn*, 103 Fed. 97. But necessary parties must be aligned as plaintiffs or defendants according to their real interests and the facts of the case. *Gage v. Riverside Trust Co.*, *supra*. And a party whose real interest places him on one side cannot be transferred to the other in order to give jurisdiction by diversity of citizenship. *Mann v. Gaddie*, 158 Fed. 42. And, when a suit is brought by one in a representative or fiduciary capacity, the jurisdiction of the federal courts depends upon his citizenship, and not upon the citizenship of the person represented or interested. *Bonnafée v. Williams*, 3 How. (U. S.) 574. It seems settled that, where the action is to have a judgment set aside, the jurisdiction depends on the citizenship of the person against whom the judgment was rendered, and not on the citizenship of the person moving to have it set aside. *King v. Davis*, 137 Fed. 198.

INSURANCE — PREMIUMS — RECOVERY BACK BY POLICY HOLDER AFTER POLICY ANNULLED. — During the life of a title insurance policy the insurer went into a receivership, and the policy was annulled. The insured sued for the amount of a premium paid. *Held*, that the company is entitled to deduct the value of insurance given during the time elapsed between the date of the policy and the date of its annulment. *State ex rel. Schaefer v. Minn. Tit. Ins. Co.*, 116 N. W. 944 (Minn.).

For a discussion of a policy holder's right to receive premiums paid on a termination of the contract of insurance in the case of life insurance, see 22 HARV. L. REV. 134.

LEGITIMACY — PUTATIVE MARRIAGE. — Parents domiciled in Scotland or Canada went through a marriage ceremony in California, honestly believing in the validity of a divorce which a former husband had obtained in North Dakota upon substantive and jurisdictional grounds not recognized in England, Canada, or Scotland. *Held*, that the parents' mistake having been one of law, not fact, the doctrine of putative marriage does not apply. *Re Stirling*, [1908] 2 Ch. 344. See NOTES, p. 222.

MALICIOUS PROSECUTION — BASIS AND REQUISITES OF ACTION — WRONGFUL INSTITUTION OF PATENT INTERFERENCE PROCEEDINGS. — The defend-